



FRANK L. KUBLER
13261 S. W. 54TH COURT
MIRAMAR FL 33027

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**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Wallace D. Sanger :
Application No. 09/776,005 :
Filed: February 2, 2001 :
Title of Invention: **METHOD OF FORMING** :
CONCRETE BUILDING MODULES

This is a decision on the petition filed September 29, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application, or in the alternative under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

In response to a Final Office Action mailed December 2, 2003, which set a three month period for reply, petitioners filed an amendment and one month extension of time request on April 7, 2004. In response, a Notice of Abandonment was mailed on February 6, 2006 noting that the amendment filed April 7, 2004 was not in compliance with 37 CFR 1.121(c)(4)(i).

Petitioner argues that in light of OG Notice July 5, 2005, which essentially permitted the filing of amendments with the text of canceled claims, the amendment filed April 7, 2004 was compliant and therefore the notice of abandonment was erroneously mailed.

The Examiner of record confirms that the amendment filed April 7, 2004 was compliant with 37 CFR 1.121(c)(4)(i) and the application should not have been held abandoned. The Notice of Abandonment was sent in error and is hereby withdrawn. No petition fee is due and none has been charged.

Since this application is being treated under 37 CFR 1.181 and is grantable, there is no need to treat the petition in the alternative under the unintentional standard.

This matter will be referred to Technology Center 3635 for appropriate action on the amendment filed April 7, 2004, as a proper response to the Final Office Action mailed December 2, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned
Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions